

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WISCONSIN

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THE ESTATE OF LALIAH SWAYZER, et al.

Plaintiffs,

Case No: 16-CV-1703

v.

DAVID J. CLARKE JR., et al.

Defendants.

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SUPPLEMENTAL DECLARATION OF JAMES J. GENDE II

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James J. Gende II declares pursuant to 28 U.S.C. § 1746 and under penalty of perjury that the following is true and correct:

1. That I am one of the attorneys retained to represent the plaintiffs in this action. I make this Supplemental Declaration in Support of Plaintiffs' Motion Challenging Armor's Confidentiality Designation.

2. That attached hereto as **Exhibit A** is a true and correct copy of a "TEXT ONLY ORDER" regarding the objective standard to be applied to "Confidentiality" designations:

The parties' stipulated protective order is accepted and entered as the court's order with this edit: on page one, the phrase 'the person in good faith believe' is deleted. This makes the definition of confidential information objective, as required by circuit law. Signed by Magistrate Judge Stephen L. Crocker on 5/10/2018" in the matter of **Bailey v. Wienandt, et al., 17-CV-00943**, Western District of Wisconsin.

3. That attached hereto as **Exhibit B** is a true and correct copy of the Hon. Barbara B. Crabb's Order relative to the designation of "confidential information", which provides:

[T]he law in this circuit also requires, the definition of "confidential information" must be objective and not subjective. *Citizens First National Bank of Princeton v. Cincinnati Insurance Co.*, 178 F.3d 943, 944-45 (7th Cir. 1999). *Vorwald v. 3M Co.*, No. 08-cv-628-bbc, 2009 U.S. Dist. LEXIS 13991, at \*1 (W.D. Wis. Feb. 20, 2009).

Dated this 13<sup>th</sup> day of November, 2018.

By: s/James J. Gende II

James J. Gende II

SBN: 1030921